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New York

President:	Mr. Sangqu	(South Africa)
Members:	Azerbaijan	Mr. Mehdiyev
	China	Mr. Li Baodong
	Colombia	Mr. Osorio
	France	Mr. Araud
	Germany	Mr. Berger
	Guatemala	Mr. Rosenthal
	India	Mr. Hardeep Singh Puri
	Morocco	Mr. Loulichki
	Pakistan	Mr. Tarar
	Portugal	Mr. Moraes Cabral
	Russian Federation	Mr. Churkin
	Togo	Mr. Menan
	United Kingdom of Great Britain and Northern Ireland	Sir Mark Lyall Grant
	United States of America	Mrs. DiCarlo

Agenda

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634*)

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The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The promotion and strengthening of the rule of law in the maintenance of international peace and security

Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634*)

The President: Under rule 37 of the Council's provisional rules of procedure, I invite the representatives of Argentina, Armenia, Australia, Austria, Bangladesh, Brazil, Chile, Costa Rica, Denmark, Estonia, Ethiopia, Finland, the Islamic Republic of Iran, Japan, Kyrgyzstan, Liechtenstein, Luxembourg, Mauritius, Mexico, Nepal, Norway, Peru, Solomon Islands, Sri Lanka and Switzerland to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite His Excellency Mr. Thomas Mayr-Harting, Head of the Delegation of the European Union to the United Nations, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to document S/2011/634*, which contains the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies.

I welcome the presence of the Secretary-General, His Excellency Mr. Ban Ki-moon, and I give him the floor.

The Secretary-General: I should like to thank Ambassador Baso Sangqu, President of the Security Council, for having organized this important meeting.

Today's open debate comes at a time of breathtaking political change driven by people's calls for accountability, transparency and the rule of law. Women and men everywhere want their rights to be respected. They are risking their lives in peaceful protest to demand the opportunities, dignity and secure future that every individual deserves.

There is no silencing this cry for justice. Repression only raises the volume. Our task is to usher in an era of respect for the law in every field, from peace and security to trade and development, from the high seas to local communities. Never has the United Nations rule of law sector faced such great challenges or such historic opportunities. This Security Council meeting is part of a broader international push to rise to this moment.

Earlier this week, the United Nations gathered officials, ambassadors and distinguished thinkers on the rule of law for a two-day meeting dealing with justice, human rights, peacekeeping and related issues. In September, we will convene a high-level meeting on the rule of law — the first event of its kind and the first time since 2005 that these issues will be discussed by top leaders.

The United Nations work to promote the rule of law extends to more than 150 countries. Our efforts to combat transnational crime, build confidence and capacity in State institutions, and battle discrimination against women are all part of this effort. United Nations programmes have already helped tens of thousands of vulnerable individuals to obtain justice. We are supporting legal aid. We are training public defenders. We are raising awareness, since it is often those who most need the rule of law who also know least about their rights. We are working on strategies to counter the growing threats posed by piracy, drug trafficking and organized crime.

For societies traumatized by years of fighting and gross violations of human rights, nothing is more critical than establishing the rule of law. When the guns fall silent, the United Nations is often the first organization on the ground, helping fractured countries to start building peace and strengthening key institutions. Our goal is to quickly demonstrate the value of the rule of law. That builds public confidence in political settlements.

Our approach has three basic components: first, promote accountability and reinforce norms through transitional justice; secondly, build justice and security institutions to promote trust; and thirdly, focus on justice for women and girls to foster gender equality. The Security Council has helped bring these priorities to the top of the international agenda, but the Council can do more.

I encourage the Council to include the promotion of transitional justice measures more broadly in the mandates of peacekeeping and political missions. I also encourage the Council to reject any endorsement of amnesty for genocide, war crimes, crimes against humanity or gross violations of human rights and international humanitarian law. I urge members to bring justice closer to the victims. That means giving them the opportunity to speak out to truth commissions and to participate in judicial proceedings. It also calls for supporting remedies and reparations, and it requires strengthening national prosecutions for serious international crimes.

The primary obligation for accountability rests with domestic justice systems. It will require the development of security institutions that are accountable to laws and to the people. It will take more funding for women's access to justice, and it will demand greater attention to the economic and social roots of gender inequality.

We have made progress in helping vulnerable groups, but we need to do more to include their perspectives when we design rule of law activities and when we carry them out. We must also support innovative initiatives such as the deployment of civilian justice and corrections experts on missions. And we should use the United Nations Rule of Law Indicators, designed to monitor criminal justice institutions, during and after conflicts. But when national justice systems fall short, the international community must be able to respond with international prosecutions, particularly before the International Criminal Court.

The United Nations was established in the name of the world's peoples. As their demands for justice rise, we must respond. We have to create a world where the rule of law, social justice, accountability and a culture of prevention are the foundations of sustainable development and durable peace. It will take commitment from the international community and the Security Council to see that justice is done where justice is due.

The President: I thank the Secretary-General for his statement.

I now give the floor to the members of the Security Council.

Mr. Berger (Germany): At the outset, let me thank the Secretary-General for his presentation and for his comprehensive report of October 2011 on the rule of law and transitional justice (S/2011/634*). We are also pleased that today's open debate is taking place under the presidency of South Africa, a country that has set an historic example in the field of transitional justice through its own process of truth and reconciliation.

Germany, which aligns itself with the statement to be delivered on behalf of the European Union, reaffirms its firm commitment to an international order based on international law and the rule of law with the United Nations at its core. Our own history has shown us the disastrous consequences of disregarding even the most basic rules without which societies are relegated to a state of lawlessness and moral destitution. Today, strengthening the rule of law is a priority area within our international cooperation activities, and we are currently providing targeted rule of law assistance to partner countries worldwide.

Both the United Nations Charter and the Universal Declaration of Human Rights recognize the relevance of the rule of law to lasting international peace and security. The issue cuts deeply through the entire spectrum of activities undertaken by the United Nations in general, and by the Council in particular. The presence or non-presence of the rule of law ultimately determines success or failure. This applies just as equally to the protection of civilians as it does to children in armed conflict, or to women, peace and security, to name but a few key areas.

In this context, we welcome the establishment of and activities undertaken by the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit. However, we call upon all participating agencies in the Group to redouble their efforts to define and implement a unified and comprehensive approach to strengthening the rule of law worldwide, and to address relevant gaps in their programme activities.

We note with satisfaction that the Security Council, in exercising its mandate, has been playing an increasingly crucial role in the promotion of the rule of law. This is most notable in the more than 160 references to rule of law and transitional justice made since 2004 in its thematic and country-specific resolutions. In the same period, the Council has

included support for the rule of law in the mandates of at least 14 peacekeeping and special political missions worldwide. In this context, we appreciate the achievements of, inter alia, the United Nations Mission in Liberia and the United Nations Integrated Peacebuilding Office in Sierra Leone, as well as the fact that the United Nations Mission in the Republic of South Sudan has made the strengthening of the rule of law in South Sudan a key priority. The United Nations Peacebuilding Commission (PBC) also has a critical role to play in this regard. The promotion of justice and the rule of law has become an integral part of peacebuilding strategies for countries on the PBC's agenda, such as Liberia and Sierra Leone.

Furthermore, the Security Council has recently been further integrating the rule of law as a basis for its own work, as is evident from the establishment of the post of Ombudsperson under the Al-Qaida sanctions regime, through resolution 1989 (2011), and the ongoing discussions by the Council of its working methods. In that regard, we fully recognize the scope for expanding that basis as outlined in the Secretary-General's report. For example, more frequent use could indeed be made of Article 36 of the Charter, which allows the Council to recommend to States to refer legal aspects of international disputes to the International Court of Justice. Also, the acceptance by more States of the Court's jurisdiction as compulsory would greatly contribute to further anchoring the rule of law, both within the Security Council and in international relations. From among the current members of the Council, only five States have deposited such a declaration. We therefore call upon those Council members, as well as non-Council members, that have not yet done so to consider taking that important step.

Given the importance of accountability to the rule of law, combating impunity becomes, by definition, an obligation. The Nuremberg Declaration on Peace and Justice of 2007 therefore correctly states that

> "The most serious crimes of concern to the international community, notably genocide, war crimes, and crimes against humanity, must not go unpunished and their effective prosecution must be ensured.
>
> "As a minimal application of this principle, amnesties must not be granted to those bearing the greatest responsibility for such crimes and violations of international humanitarian law." (*A/62/885, annex, III (2)*)

Those objectives were recently further served by the Council when it established the International Residual Mechanism for Criminal Tribunals, through resolution 1966 (2010), and when it referred the situation in Libya to the International Criminal Court (ICC), through resolution 1970 (2011). In that context, let me reiterate my country's continuing support for the ICC and its invaluable contribution to the strengthening of the rule of law.

Germany recognizes the importance of transitional justice as an essential component of efforts to strengthen the rule of law and as a viable contribution to peace and security. We therefore fully support the call for a comprehensive transitional justice policy in countries emerging from conflict that involves criminal persecution, institutional reform, redress for victims and the establishment of truth and reconciliation commissions. In that context, the focus of the international community in the area of the rule of law should be on broadening and deepening civilian capacity within countries emerging from conflict.

In the wake of the historic changes symbolized by the fall of the Berlin Wall, in 1989, many countries have undergone the transition to democracy, and in other cases new nations have emerged. Since last year, we have observed momentous change in the Middle East and North Africa, where the Arab Spring continues to unfold. While the hopes and specific challenges connected to those developments might differ in each and every case, the establishment of the rule of law remains a common benchmark for success at all levels — be it the realization of a people's political aspirations, the enhancement of prosperity or the creation of sustainable economic development. To strengthen the rule of law, whether at the national or international level and whether through conflict prevention or peacebuilding, is an investment that pays.

Mr. Hardeep Singh Puri (India): I would like to thank the South African delegation for organizing today's open debate. I would also like to thank the Secretary-General for his comprehensive report (S/2011/634*) on justice and the rule of law in conflict and post-conflict countries, as well as for his valuable statement.

As the world's largest democracy and, arguably, one of its most diverse countries, India firmly believes that the rule of law is a necessary precondition for sustainable peace and development in any society. Indeed, justice and the rule of law are preconditions for the maintenance of peace and security at the international level as well.

In the World Summit Outcome (General Assembly resolution 60/1), which was adopted on 16 September 2005, our leaders acknowledged that good governance and the rule of law at the national and international levels were essential for sustained economic growth, sustainable development and the eradication of poverty and hunger. To achieve that objective at the national level, world leaders also recommitted themselves to actively protect and promote all human rights, the rule of law and democracy. They also recognized that those were not only interlinked and mutually reinforcing, but also belonged to the universal and indivisible core values and principles of the United Nations. To achieve that objective at the international level, the Outcome called upon all parts of the United Nations to promote human rights and fundamental freedoms in accordance with their respective mandates.

Strengthening the rule of law at the national level necessitates that States fulfil their obligations to observe and protect human rights and fundamental freedoms for all in accordance with their domestic legislation, international law, the Charter of the United Nations, the Universal Declaration of Human Rights and other related instruments. It is also necessary to eliminate policies and practices that discriminate against women and to adopt laws and promote practices that protect the rights of women and other vulnerable sectors of society and promote gender equality.

Compliance with rule of law standards not only facilitates the resolution of conflicts and the achievement of peace, stability and development in post-conflict situations, it also helps underprivileged people and other vulnerable sectors of society to secure justice, dignity and empowerment. Accordingly, we also support activities of United Nations agencies in assisting countries in conflict and post-conflict situations to build their capacity to ensure justice and the rule of law for all sectors of their societies. We are happy to note that the Secretariat's Rule of Law Assistance Unit is actively engaged in strengthening United Nations activities in promoting the rule of law, including through technical assistance and capacity-building for countries in conflict and post-conflict situations.

Such assistance should be based on the fundamental principles of the United Nations Charter, namely, respect for national sovereignty, territorial integrity and non-interference. The objective should be to build national institutions that are capable of meeting the legitimate aspirations of the population and addressing their grievances. There is no one model to fit all conflict and post-conflict situations. United Nations assistance must therefore have flexibility to adapt assistance to specific situations. The value systems and sensibilities of the societies concerned should invariably be taken into account while planning for United Nations involvement and assistance.

The rule of law is a principle and does not necessarily mean precepts of one particular kind. It is important to ensure national ownership while assisting countries in capacity- and institution-building, including in the area of the rule of law. Adequate resources should be made available to United Nations missions, and there need be no hurry to withdraw them so long as national authorities request their continued presence.

To ensure transparency, fairness and adherence to the rule of law in the United Nations system, it is necessary that the mandate of one organ of the United Nations should not be infringed upon or be duplicated by its other organs. It is also necessary to support and further encourage those institutional policies and processes that ensure a just and effective international order based on the rule of law. There are some basic principles accepted universally, but beyond that it is clear that there is no one single approach to the rule of law. In that context, it is important to note that, to address the diversity prevailing in rule of law approaches in different countries around the world, the Statute of the International Court of Justice emphasizes the representation of major civilizations and principal legal systems of the world when it comes to the composition of the Court.

In conflict and post-conflict situations, it is important that United Nations officials on the ground realize that their role is to assist the country concerned; it is not a matter of leadership. United Nations officials must also adhere to their mandates and not take unto

themselves the task of propagating one or another line of thinking on what and how laws should be framed and implemented at the national level. That is a matter that is outside the United Nations domain and lies squarely with national authorities.

It is necessary that the mandates for United Nations missions generated by the Council be focused and duly prioritized. There have been instances where Council mandates are interpreted in a broad manner and, at times, without consultations with the host Government. For the effective functioning of the United Nations missions, particularly given the limited resources they have, it is essential that those aspects be given due consideration at the time that mandates are generated, as well as during their implementation.

The synergies across the board in the United Nations system are important and need to be reflected in the implementation of mandates. In that connection, the onus is essentially on the Council to ensure that it respects the mandates of other United Nations bodies, rather than encroaching on them. The Council should also resist the temptation to have recourse to its Chapter VII powers and, instead, promote justice and the rule of law in countries on its agenda through peaceful means under Chapter VI of the Charter.

In conclusion, let me state that my delegation sees an urgent need to move towards approaches that are nationally driven and sustainable and that can garner the requisite political and popular support in conflict and post-conflict countries for United Nations assistance in justice and the rule-of-law fields to be fruitful and enduring. There is also a need for a more comprehensive and joint approach among United Nations entities to support the rule of law in line with national priorities and plans. At the same time, a reformed Security Council that conforms to the contemporary geopolitical realities is essential if efforts at global norm-making — in the case of justice and rule-of-law challenges in post-conflict situations — are to succeed.

Mr. Moraes Cabral (Portugal): Let me thank South Africa for bringing forward this important matter under its presidency and for holding this debate open to the participation of the wider membership. The focus of this debate is on the rule of law in the context of conflict and post-conflict situations, which is clearly a crucial matter for the Council to consider and develop.

The rule of law is today an indispensable component of any successful strategy on United Nations peacekeeping and peacebuilding. The Council therefore has to deepen its reflection on the issue, in particular when drafting mission mandates, so as to respond more effectively to the needs on the ground.

Naturally, Portugal fully supports the statement that later will be delivered by Ambassador Mayr-Harting on behalf of the European Union.

I also thank the Secretary-General for his presentation here today as well as for his comprehensive report (S/2011/634*), which illustrates many important aspects that will help guide the Council's work on this topic in a more oriented way. The report covers a lot of ground but, due to time constraints, I will touch upon the following five issues that we would like to highlight in that context.

My first point is on international tribunals. One can never overemphasize the role that such tribunals play in ensuring and promoting the rule of law. First and foremost is the International Court of Justice, whose role is undisputable, be it in conflict resolution or prevention. That essential tool could be used more often to the advantage of the international community. It would therefore be important for more States to accept its compulsory jurisdiction. We therefore encourage States that have not yet done so to ponder accepting it.

But in the recent history of the United Nations, other international tribunals have come into existence. Those have already established an impressive record in the fight against impunity for the most serious crimes. International tribunals, including ad hoc international tribunals, mixed tribunals and specialized chambers in national tribunals, have all played an important role in administering international justice. They have developed a set of international standards of justice that have strengthened their authority and consolidated an important area of international jurisprudence.

Likewise, their influence is felt also in domestic jurisdictions. Indeed, the role of those tribunals in building and promoting the rule of law at the national level, including through the application of the principles of complementarity with national jurisdictions, merits being noted. Very soon, the Residual Mechanism, established by the Council over one year ago, will start its work absorbing an important functional legacy of the International Criminal

Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, which represents an important part of building international rule of law.

The International Criminal Court (ICC) builds on those steps and now has a unique role to play, not only on behalf of the 150 States that are parties to the Rome Statute, but also of the international community as a whole. The situations in Darfur and in Libya, which the Council decided to refer to the ICC, are proof of that. Cooperation with the Court is therefore crucial to achieving the goals of justice and fighting impunity, which are part and parcel of sustainable peace.

My second point relates to the rule of law as a crucial component in the mandates established by the Council. The rule of law is fundamental to sustainable peace and development. The Council should address those needs when drafting mandates and planning missions, as well as at an early stage of the transition from peacekeeping to peacebuilding. We should also make sure that the necessary means are made available in due time, which requires careful United Nations planning.

Furthermore, there should be an evaluation of the results of the work undertaken by the United Nations on the rule of law in the field. Bearing in mind the importance of the rule of law in the prevention of conflicts and in ensuring sustainable peace and development, the Council should follow that work closely and support initiatives to further strengthen and coordinate relevant United Nations activities, such as the development of indicators.

My third point relates to transnational organized crime. This is a matter with undeniable relevance to the topic we are addressing today. Conflict and post-conflict situations provide fertile ground for organized crime, which today, with international networks and the interlinkage of different criminal activities, represents a real threat to peace and security. Piracy off the coast of Somalia, with its impact, not only domestically on Somali society but also at the international level, provides some hard evidence of that link.

Only through strong legal systems, appropriate legislation, effective judicial machinery and international cooperation can those threats be fought. For countries debilitated by conflict, easily permeated by such criminal activities, the only viable option is the assistance of the international community. We welcome the Council's awareness of that by calling for long-term capacity-building efforts by the United Nations in affected countries, including through regional initiatives, and for a strengthened United Nations coordination.

My fourth point concerns the situation of those most vulnerable to the impact of conflict and post-conflict situations. An effective response has to address the particular needs of those people, such as women and children, who are not only more vulnerable, but also so often targeted and used as soldiers or as instruments of war, as is the case with sexual and gender-based violence. Rule-of-law tools are also fundamental in that regard. The means to fight impunity for those crimes have to be strengthened, including in United Nations mandates through their components on protection of civilians. Moreover, legal systems have to be capable of addressing the special situation and needs of women and children, particularly in societies traumatized by conflict, including through special legislation and appropriate programmes of assistance and by abolishing laws and practices that discriminate against women and pose obstacles to their full and equal participation.

My fifth point concerns a final word on amnesties. Our steadfast support to the ICC is firmly anchored in the belief that there can be no impunity for the perpetrators of the most serious crimes that concern us all. We therefore fully support the United Nations policy, reiterated in the Secretary-General's report, of rejecting any endorsement of amnesty for genocide, war crimes, crimes against humanity or gross violations of human rights.

Mr. Araud (France) (*spoke in French*): I would like to thank South Africa for having organized this open debate on the role of justice and the rule of law in the maintenance of international peace and security. This debate is an important stage in the preparation of the high-level event on the rule of Law that will be held on the margins of the General Assembly's sixty-seventh session — an event in which the presidency of the Security Council has been invited to participate. I would also like to thank the Secretary-General for his briefing.

I would also like to associate myself with the statement that is to be made by the observer of the European Union.

In 2006 and 2010, the Security Council adopted ambitious and innovative presidential statements concerning justice and the rule of law. We welcome that the text of draft statement that the President will read at the close of our debate is set out in the same vein.

More significantly still, the Security Council has implemented its commitments in the context of geographic situations. This synergy between the Council's thematic work, on the one hand, and its action in specific situations, on the other, is a key component of its efficacy.

The successive Council resolutions of 2011 bear witness to that, with the Council implementing in that regard the full array of measures anticipated in the thematic declarations on justice and the rule of law. Resolution 1970 (2011), which referred the situation in Libya to the International Criminal Court (ICC), reflects the intention of the Council "to continue forcefully to fight impunity ... with appropriate means", as stated in the presidential statement of 2010 (S/PRST/2010/11). Resolution 2009 (2011) established the United Nations Support Mission in Libya (UNSMIL) and called on it to support Libya's efforts to restore the rule of law. It also reflects the Council's resolve to promote the rule of law in the efforts to restore peace, which was also reaffirmed in 2010.

There are many other examples, and therefore our action can be further strengthened in several areas. I shall cite two.

The first has to do with strengthening our support for the rule of law in countries affected by conflict. The Security Council's investment in the rule of law — whether in the Democratic Republic of the Congo, South Sudan or Côte d'Ivoire — is immense and lasting. The increased efforts for coherence and coordination implemented by the Secretary-General and described in his report (S/2011/634*) are directed at greater effectiveness. The dialogue between the Council and the country-specific configurations of the Peacebuilding Commission is also a key element of that coherence. Real needs are better identified. We do feel, however, that it would be useful to make progress in the identification and rapid deployment of capacities that are adapted to those needs.

The report of the Secretary-General on civilian capacity in the aftermath of conflict (S/2011/527) is particularly relevant with regard to police, justice and prison administration. We have had a debate in the Council on this subject, which should also be examined in the General Assembly. It is important to encourage any and all initiatives to expedite work to facilitate access by countries concerned to the expertise they need.

The Council should also mobilize to support the efforts of States in the fight against organized crime, drug trafficking and corruption. The increase in cross-cutting threats compels us to support the rule of law in the most fragile countries, particularly in West Africa and in the Sahel.

The second area concerns criminal justice. The fight against impunity for those who commit genocide, crimes against humanity and war crimes is an essential component of our peace and security mission. The international community and this Council can already count on the International Criminal Court — a permanent, fully integrated tribunal with the competence to prosecute the perpetrators of the most serious crimes when national judicial institutions lack either the will or the capacity to bring the authors of such acts to justice. The International Criminal Court is involved in numerous situations that are on the Council's agenda, in the Democratic Republic of the Congo or in Côte d'Ivoire, and the Council itself has referred two situations to the Court.

We must remain firm and consistent in our message to the perpetrators of atrocities, in particular those who plan and order crimes to be committed as a means to attain or remain in power. Their individual criminal responsibility is at stake.

In that regard, we welcome the unambiguous position of the Secretary-General, who has asked his representatives on the ground to, on the one hand, always respect judicial process but, on the other, to limit their contacts with wanted criminals to what is essential for their mission and finally never to accept provisions concerning amnesties or immunities in agreements that are sponsored by the United Nations.

International criminal justice can be an effective instrument for preventing crime and thus for promoting lasting peace, provided that it has the unwavering support of the international community and of this Council.

One possible route for improving our efforts in 2012 could be to better ensure follow-up in

cooperation between States and the International Criminal Court when that cooperation has already been decided by the Council in a resolution adopted under Chapter VII of the Charter, as with resolution 1593 (2005) on Darfur. That is also one of the recommendations of the Secretary-General in his report.

The draft presidential statement prepared by South Africa contains a new provision recalling the importance of cooperation with the ICC and the other international tribunals. We welcome that.

Before concluding, I wish to recall the importance that we attach to the peaceful settlement of disputes, which is one of the pillars of the Charter, and to the role of the International Court of Justice as the principal judicial organ of the United Nations. The number of inter-State disputes that have been brought before the Court and the requests for opinions from organs of the United Nations attest to its vitality.

Issuing judgments is an essential responsibility that gives structure to the international order. But in this domain, and for criminal justice, implementing the decisions of judges is just as fundamental. We must focus our attention on that in the coming years.

Mrs. DiCarlo (United States of America): I would like to thank the Secretary-General for his comments today and for his comprehensive report (S/2011/634*). We welcome this opportunity to join the discussion on justice and the rule of law. As the Secretary-General's report, of October 2011, makes clear, the rule of law and transitional justice are critical in preventing conflict and atrocities and in rebuilding societies that have been torn apart by systemic violence.

Today I would like to address three aspects of justice and the rule of law as they relate to conflict and post-conflict situations. The first concerns the importance of support for justice at the international level. The second is the need to build the capacity of domestic justice systems, and the third concerns recent efforts by the United States to institutionalize and deepen our own commitments in that area.

Strengthening the rule of law requires more than technical expertise. It also requires political will and coordinated action by a wide range of international actors. One key way through which the international community has signalled that impunity for the most serious crimes will not be tolerated is the creation of international and mixed tribunals, as well as commissions of inquiry and fact-finding mechanisms.

Active support by all States for international and mixed tribunals is crucial. We have supported those international accountability mechanisms across the globe, from the Extraordinary Chambers in the Courts of Cambodia to commissions of inquiry in places like Kyrgyzstan, Côte d'Ivoire and Libya. In this regard, the International Criminal Court (ICC) can play an important role in contributing to the fight against impunity. The United States supported the Security Council's ICC referral regarding Libya, and we are helping to ensure that those charged in that country by the Court face justice consistent with international standards.

Although the United States is not a party to the Rome Statute, over the past several years we have sent observer delegations to sessions of the Assembly of States Parties and to the Review Conference in Kampala. In December, we co-sponsored a high-level panel at the Assembly of States Parties to highlight the importance of ensuring protection for witnesses and judicial officers. We have engaged with the Office of the Prosecutor and with the Registrar to consider ways to support specific prosecutions already underway. We have also responded positively to a number of informal requests for assistance.

As we approach justice and the rule of law in conflict and post-conflict situations, we must place special emphasis on the protection of women and children, as well as of other vulnerable groups. That includes persons targeted for violence based on sexual orientation or gender identity.

We must ensure accountability for those responsible for the most serious violations of international humanitarian and human rights law, and we must deter further violations. Hindering such persons from travelling, accessing funds and arming themselves by the application of targeted sanctions can play an important role in deterring future violations. We have strongly supported targeted sanctions to help combat the threats to international peace and security posed by the most egregious of such violations. The rule of law also means that States must fulfil their international legal obligations, including Chapter VII obligations, related to sanctions imposed by the Security Council.

While all of those international accountability mechanisms play an important role, on their own they are insufficient. We must also catalyse a broader process of long-term prevention. The lessons of international justice must be embraced at the national level and developed locally to ensure that States can protect their citizens' rights.

The many rule of law capacity-building initiatives to advance transitional justice deserve the continued support of the international community. The United States, together with its partners, enthusiastically supports initiatives in such States as the Democratic Republic of the Congo, Côte d'Ivoire and elsewhere to bolster domestic capacities to investigate and prosecute atrocity crimes and to build justice systems that can deliver fair and impartial justice. We can help to deter and prevent future violence through such actions as embedding judicial advisers in local prosecution cells, supporting specialized mixed courts, funding witness protection programmes, training police to investigate sexual and gender-based violence, and training border security officers.

Finally, let me end by noting two recent initiatives that the United States has undertaken to make good on its commitment to address many of the issues being discussed here today.

First, in December 2011, President Obama signed an executive order launching the first-ever United States National Action Plan on Women, Peace and Security, which provides a comprehensive road map for accelerating and institutionalizing efforts across the United States Government to advance women's participation in making and keeping peace. The National Action Plan recognizes that women are not just victims of war; they are agents of peace and essential to building the rule of law in any society.

Secondly, the United States Government, under a presidential study directive, undertook a comprehensive review to strengthen the United States' ability to prevent and respond to mass atrocities. The directive mandated the establishment of an atrocities prevention board that will coordinate prevention and response efforts and help the United States to engage early and effectively. The review also focused on how we can work with our international partners to more effectively prevent and respond to atrocities. We look forward to working with them to strengthen the international community's capacities in that area.

Those two initiatives exemplify the importance that the United States places on ensuring that we prioritize the rule of law and transitional justice as essential elements in efforts to prevent and respond to conflict and to assist in building peace.

As has been pointed out in today's discussion, strengthening the rule of law around the world reinforces peace, progress and security. We look forward to further discussions of rule of law matters throughout the United Nations system, including future discussions here in the Council, as well as the high-level event on the rule of law to be held in the General Assembly this fall.

Sir Mark Lyall Grant (United Kingdom): The United Kingdom welcomes this debate and is grateful to the South African mission for taking the initiative to hold it. We are also grateful to the Secretary-General for his important report (S/2011/634*), for his statement today, and for the strong personal lead that he has taken on this issue.

The rule of law is a term that was coined by the great British constitutionalist A.V. Dicey in the nineteenth century. It is a concept that lies at the heart of the unwritten Constitution of the United Kingdom. Our reforming ancestors recognized that the fairness inherent in the rule of law was preferable to the rule of man.

Since 1945, that principle has been systematically extended into almost all areas of the international sphere. In some matters that were once fertile sources of potential conflict, the rules-based approach has been comprehensively and universally adopted. Issues related to diplomatic protection, maritime navigation and trade tariffs are now almost exclusively settled in negotiations guided by international law or, when that fails, by international processes and tribunals.

That success should spur us to work harder in other fields, such as climate change, where agreement is possible on extending the reach of the rule of law in the international sphere. For the United Kingdom, a rules-based approach is at the heart of our foreign policy. We are the only permanent member of the Security Council to have accepted the compulsory jurisdiction of the International Court of Justice. We are also strong supporters of the International Criminal

Court (ICC) and one of only two permanent members of the Council, alongside France, to subject ourselves to its jurisdiction wherever we act in the world.

Together with the other international tribunals, the ICC has ushered in a new era of accountability, which should make some — including those acting in Syria right now — think twice before ordering or committing atrocities. We call on all members of the Security Council that have not yet done so to become States parties to the Rome Statute of the ICC, as 120 United Nations Members have already done.

It is particularly disappointing that some Council members that express a commitment to the rule of law are even now unwilling to recognize the achievements of the ICC in the fight against impunity for the most serious crimes of international concern.

The United Kingdom warmly welcomes the focus of the Secretary-General's report on the rule of law in conflict and post-conflict countries. A defining feature of the Arab Spring is the revolutionaries' clear demand for the rule of law and justice, instead of the arbitrary rule of autocrats. Across the world, ordinary people cite insecurity and lack of access to justice as one of the main impediments to a better life.

Collective efforts to strengthen rule of law systems in countries affected by conflict are critical. It is the bedrock of sustainable development. The United Kingdom considers security and justice as a basic service, on a par with health and education, and a fundamental right, as recognized in the Universal Declaration of Human Rights.

The United Kingdom is committed to spending 30 per cent of its growing development assistance in countries affected by conflict, which among other things will help 12 million women to access justice through the courts, the police and legal assistance.

The United Nations is uniquely placed to play a central role in strengthening the rule of law in countries affected by conflict. The World Bank's 2011 *World Development Report* provided evidence that there are crucial gaps in the international system in support of the rule of law, specifically in police, justice and corrections support. Those continued gaps mean that countries emerging from conflict are often unable to access the support they need in those critical sectors.

The United Kingdom recognizes the Secretary-General's efforts to address those challenges. We welcome the Secretary-General's report on civilian capacity in the immediate aftermath of conflict (S/2011/527). That initiative has the potential to improve the United Nations rule of law assistance to countries emerging from conflict by broadening and deepening its pool of deployable civilian experts. The United Kingdom urges the Secretary-General to use that process to delineate more clearly roles and responsibilities within the United Nations system for rule of law activities, and to develop better ways of objectively measuring their impact on the ground.

National ownership is critical to the success of any international assistance to strengthen rule of law systems. The United Kingdom recognizes that building national capacities and independent national institutions is essential, and that local ownership and leadership in that process should be encouraged.

There is no one correct way of implementing the rule of law. There is much to be learned from the experience of other traditions. That is why the United Kingdom strongly supports the recent launch of the "new deal" proposed by countries affected themselves by conflict to guide the way in which the international community works in fragile and conflict-affected countries. We encourage the whole United Nations system to adhere to its principles.

Those issues demonstrate the need to make greater strides towards a common understanding of the need to build and entrench respect for the rule of law in post-conflict countries. As the Secretary-General has reminded us today, this autumn's high-level meeting on the rule of law will provide an opportunity to take action to address those challenges.

Mr. Osorio (Colombia) (*spoke in Spanish*): I would like to thank you, Mr. President, for organizing this open debate on a subject of such paramount importance to all Member States as justice and the rule of law. I also thank the Secretary-General for his report on the subject of how this issue should be applied in conflict and post-conflict societies (S/2011/634*).

Colombia attaches great importance to the maintenance and strengthening of judicial institutions and to efficiency and effectiveness in the administration of justice. In Colombia, international human rights law and international humanitarian law are a part of our constitutional foundation, bringing a moral force to constitutional principles and taking precedence in the domestic legal system. In applying

that moral foundation we act on our strong belief in its underlying principles.

The Secretary-General's report notes a number of initiatives by the Government of Colombia, especially in the areas of reparation, judicial reform and coordination with the United Nations team. Those initiatives testify to our commitment in this matter. We appreciate the interest in the Colombian Government's formulating and implementing measures to guarantee the rights of victims to truth, justice and reparation. Examples include Act 975 of 2005, the Justice and Peace Act, which sets out provisions for the reintegration of extra-legal armed groups, and the more recent 2011 Act 1448, the Victims and Land-Restitution Act, which sets out means for care, assistance and full reparation for victims of internal armed conflict. Those measures can serve as a reference point in discussing strengthening the rule of law in situations such as Colombia's.

We welcome the support that the United Nations can provide in strengthening the rule of law, especially the Security Council's contribution in situations on its agenda and under its jurisdiction. We well know the slow, arduous path to the full realization of the rule of law. We are striving to pursue that path and to achieve well-being and prosperity for all our citizens.

In our determination to build confidence in institutions, we have developed programmes such as the Crystal Urn, an online resource provided by the national Government to give citizens an active hand in the conduct of government. In a similar vein are the "pact for prosperity" meetings held weekly around the country and attended by the President and many of his ministers, as well as the establishment of the High Presidential Commission for Good Governance and Administrative Efficiency. Both are impeccable opportunities for direct interaction between the Government and the people and bespeak our clear awareness of the immediate needs of our people. We are also aware of the responsibility to properly administer justice. Act 1935 of 2010, which sets out measures to clear up court congestion, aims to make the judiciary a more effective tool for the speedy and full administration of justice for all citizens.

Colombia wants to underline the importance, when analysing such situations, of taking into account the particular characteristics of each situation, including the diversity of judicial traditions and foundations, as well as differences in background, to avoid generalized concepts that may not apply to the reality on the ground. We strongly emphasize the importance of the United Nations, especially the Security Council, adopting a spirit of cooperation with Member States in addressing areas needing improvement in the sphere of strengthening the rule of law. To that end, we should bolster communication among the General Assembly, the Economic and Social Council and the Security Council.

The credibility of measures adopted by the Security Council lies in their effectiveness in restoring international peace and security. Faced with complex, multidimensional issues such as restoring the rule of law, strengthening justice systems, fostering gender equality and protecting children requires interventions that promote those goals effectively and in a long-term, sustainable way.

In conclusion, United Nations actions in such matters work best when they complement the efforts of States. It is hard to imagine that decisions adopted by the Security Council in an abstract framework of generally applied themes will work in particular situations, if contrary to the course set by legitimately constituted authorities for strengthening the rule of law.

Mr. Loulichki (Morocco) (*spoke in French*): I would like, first of all, to thank you, Mr. President, for organizing this debate on a very important topic. This debate enables us to maintain momentum on this issue as we approach the high-level meeting to be held on 24 September. I also want to thank the Secretary-General for his personal commitment, for his participation in this debate and for his report on the subject (S/2011/634*).

Justice and the rule of law clearly constitute a sine qua non precondition for people living together in community, whether on the international or national plane. That is particularly true in countries in conflict or emerging from it. In that context, the Security Council's exercise of its primary responsibility for maintaining international peace and security is essential to solidifying the primacy of law in international relations, to minimizing the risks of conflicts erupting and to preserving peace and security around the world.

In this debate, my delegation would like to focus on the following fundamental aspects. First is the importance of adopting a comprehensive approach to

the restoration and consolidation of the rule of law in conflict or post-conflict situations. Far from being a purely legal question, strengthening the rule of law is inextricably linked with different political, economic and social factors. Building the rule of law should be an integral part of the political process. Most previous speakers have focused on the political will to establish the rule of law. It must be integrated into the process, not separated from it, so that they are mutually reinforcing.

While it is true that strengthening the rule of law in such situations is a precondition for moving from conflict to peace, a fundamental element in guaranteeing sustainable peace, the long experience of the United Nations in conflict prevention and resolution teaches us as well that the absence of development is at the heart of a large number of conflicts on the agenda of the Council.

In this enormous undertaking it is crucial that United Nations efforts be effectively coordinated, in order to combine efforts in a coherent way. That aim will require the adoption of a strategic approach within the whole of the United Nations system, in order to harmonize actions undertaken. The role of the Security Council is to interact with other competent bodies in the United Nations, so as to pursue and strengthen complementary and interactive relations that it already has with them, in particular with the International Criminal Court, the Peacebuilding Commission and the Economic and Social Council.

The second point that my delegation would like to stress is the importance of placing national ownership at the centre of all international efforts aimed at consolidating the rule of law. That involves, of course — as other speakers have underlined — respect for the principles of the sovereignty and territorial integrity of States. In that context, the efforts of the international community are not aimed at substituting for those of States but, rather, at contributing to the elaboration and implementation of national strategies that are focused on the principal elements of the rule of law. In that regard, it is crucial to ensure the support of local populations for programmes aimed at establishing or consolidating the rule of law, and the United Nations must contribute to the efforts of Governments to establish mechanisms and instruments that will enable them to respond to the real needs of their peoples.

In societies ravaged by conflict, the fragile state of national institutions represent a major obstacle to the strengthening of the rule of law. It is therefore essential that the international community have at its disposal the resources necessary to enable it to support national efforts to re-establish national institutions.

Complex peacekeeping operations, whose civilian mandates have expanded considerably, provide support to basic institutions, including judiciary bodies, civil administration and public services, so as to enable post-conflict countries to re-establish normal living conditions. In that regard, the rule of law is today an essential component of missions, and we take note of the important progress made in activities related to the police, judiciary and penal fields in post-conflict countries. When it is so mandated, the rule of law element of peacekeeping operations plays a supporting role and does not substitute for national efforts. Cooperation with host countries is therefore crucial to the success of such a complex mandate and is closely linked to security. It goes without saying that security and the rule of law are two fundamental pillars without which post-conflict States will be unable to move ahead in the context of a dynamic of lasting peace.

The third and final element on which I should like to focus is the emergence of new threats to international peace and security, in particular transnational organized crime, all types of trafficking and terrorism, which represent genuine threats to the rule of law. The case of the Sahel region is a perfect — and worrisome — example in that respect.

We agree with the approach suggested by the Secretary-General in his report regarding the importance of finding regional solutions to the problem of transnational organized crime and to capacity-building at the national and regional levels. The Council, which periodically considers those threats, should also undertake specific assessments of the impact of those threats on the rule of law. In that regard, we encourage the increasing use by the United Nations of organized crime assessments in conflict and post-conflict situations.

My country, which has established an Equity and Reconciliation Commission and which intends to bring to justice those whose human rights violations have been documented and proved, is deeply aware of the importance, value and benefits of transitional justice. Morocco's new Constitution has enabled it to further

strengthen its commitment to the rule of law and respect for human rights.

As a member of the Council, Morocco remains prepared to participate in all efforts made by the United Nations to ensure the effective and universal strengthening of the rule of law.

Mr. Li Baodong (China) (*spoke in Chinese*): I should like at the outset to thank the Secretary-General, Mr. Ban Ki-moon, for his briefing. On the question of justice and the rule of law, I should like to emphasize the following points.

First, the Charter of the United Nations and the fundamental principles of international law enshrined therein should be upheld. The rule of law in international relations should be strengthened. The Charter and the principles of international law enshrined therein constitute the core of the rule of law in international relations and the bedrock for its development. In the conduct of international relations and international affairs, adherence to the Charter and to other fundamental principles of international law, such as respect for national sovereignty, non-interference in internal affairs and the fulfilment of international obligations in earnest, represents the essence of the promotion of the international rule of law.

Under the Charter, Security Council resolutions constitute an integral part of the international rule of law, whose promotion requires the strict implementation of Council resolutions by Member States. It does not allow for arbitrary distortions or extensive interpretations of the contents of resolutions, even less the option of action beyond the mandate provided in such resolutions.

Secondly, diversity has become the predominant fundamental reality in today's world. Conflicts are inevitable when countries with different historical and cultural backgrounds, different political, economic and social regimes and varied levels of development endeavour to achieve their aspirations. The rule of law has therefore become a requirement in the achievement of peaceful settlements. Chapter VI of the Charter provides a number of modalities for the peaceful settlement of conflicts, and we support the legitimate right of countries to seek such a peaceful settlement.

Thirdly, the development of the rule of law in countries in conflict or post-conflict situations should be addressed in a comprehensive and holistic manner.

The development of the rule of law is pivotal to the achievement of peace and to peacebuilding in countries in conflict and post-conflict situations. However, that is not the only important aspect. In such countries, the effectiveness, sustainability and continuity of the rule of law must be ensured and efforts made to ensure coordination between the rule of law and political processes, economic development and national reconciliation. The sovereignty of those countries must be respected. Efforts must be devoted to their capacity-building, and the specific and unique situation of each country should be respected. Only in this way can efforts to develop the rule of law meet the requirements of such countries.

Fourthly, the relationship between the maintenance of peace and the pursuit of justice must be addressed in an appropriate manner, as there has been increased activity in the field of international criminal justice, and issues relating to peace and justice are receiving increased attention. We condemn all violations of human rights and humanitarian law. We support penalizing those who commit serious international crimes such as genocide, war crimes and crimes against humanity. We believe also that peace and justice should facilitate and complement each other. Since peace is a universal value, it represents the fundamental aspiration of all nations. The pursuit of justice should promote rather than interfere with peace processes and facilitate rather than hinder national reconciliation. The problem of impunity can be resolved only in a situation of decreased tensions and political stability.

Fifthly, caution is called for in the meting out of sanctions. We support an improvement of the United Nations sanctions regime on the basis of extensive consultations so as to improve its credibility and procedures and to establish effective monitoring mechanisms, strict criteria and defined timelines. Sanctions should be carried out only on the basis of facts and evidence. Double standards must be avoided. Impacts on civilian lives and on socio-economic development must be minimized.

Mr. Churkin (Russian Federation) (*spoke in Russian*): We are grateful to the Secretary-General for his substantive report to the Council on the rule of law and justice (S/2011/634*). In today's world, the rule of law sparks great interest, and that is not fortuitous. As the Secretary-General rightly pointed out in his report,

the political and structural changes in the Middle East and North Africa and in other regions of the world are taking place extremely swiftly. We see a destabilization of the situation in these regions, and the legal standards are becoming almost the only way to prevent the situation from plunging totally into the chaos of armed conflict and use of force, which violates international law.

In these circumstances, it is particularly important that the Security Council take a balanced approach in the area of the rule of law, focusing on fundamental principles of international law such as sovereign equality of States, non-interference of internal matters of States, the use of force only with Security Council authorization, in line with the United Nations Charter, and the peaceful settlement of disputes. We agree with the overall understanding that the Security Council, as the primary organ for maintaining international peace and security, is a key component in the rule of law, conflict resolution and post-conflict settlement. That is pursuant to the norms of law and above all the provisions of the Charter.

Here the Council has a vast array of instruments available, from measures to restore order during peacekeeping operations, governing territories in crisis conditions and providing assistance to protect civilians from genocide, war crimes, ethnic cleansing and crimes against humanity, right up to assisting States in providing investigations of violations of international law of all parties, whether or not they were involved in the conflict. It is important to note that this can be achieved only if there is strict compliance with the appropriate Security Council resolutions, excluding vague interpretations that transform their meaning.

In Libya, the arbitrary interpretation of resolution 1973 (2011) by the coalition forces led to numerous violations of international law. The rule of law in that situation can be restored only by holding an impartial investigation of the actions of all parties to the conflict. Here, we should talk about not only prosecution of those responsible for crimes but also possible liability or responsibility of the relevant international organizations and individual States.

We consider that the primary role in ensuring the rule of law belongs to States. Activities in this area carried out at the international level should complement national efforts, not replace them. We support the broad use of the capacity of the International Court in the area of resolving international disputes and the Court's carrying out a consultative function to resolve complex legal questions. It provides justice standards for all other international legal organs.

The Russian Federation is concerned with the situation of piracy off the coast of Somalia, which is getting worse. It is not possible to fully eradicate this problem without getting rid of impunity for pirates and those who sponsor them. We fully endorse the idea of a specialized regional anti-piracy court with an international component. It is important to practically implement that initiative as soon as possible.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): We thank you, Mr. President, for convening this open debate. We also thank the Secretary-General for his report (S/2011/634*) and for presenting it to us.

We believe there has been considerable conceptual and practical progress in strengthening the rule of law, particularly since the Secretary-General's watershed report in S/2004/616, in the clarification of concepts such as justice, the rule of law and transitional justice, as well as the manner in which they interact with each other at the national and international levels.

From our national perspective, the strengthening of the rule of law and of our democratic institutions is a priority derived from the Peace Accords signed at the end of 1996, which are State commitments. In fact, only five days ago a new Administration took office in my country. In his inaugural speech, the new President, Otto Pérez Molina, said:

> "Our commitment to the rule of law in all its aspects will lead us to accede to the Rome Statute in order to join the International Criminal Court as a sign of our desire to transition to a future that is governed by law and by respect for human rights of all peoples and all nations."

In this regard, our position is not only based on ideals; it responds to specific considerations that condition our future as an inclusive and democratic society.

As is known, Guatemala emerged from a protracted internal conflict after we signed our Peace Accords. We were left with fragile institutions, particularly in the security and justice sectors. The Accords incorporated concrete proposals to tackle those deficits.

In addition to the conflict, we also inherited a culture of impunity that to this day has not been entirely overcome. On the contrary, one might argue that the situation has deteriorated following the appearance in the country of cartels linked to transnational crime, which have infiltrated those weak institutions with officials who are willing to break the law.

A novel response, first conceived in the Peace Accords, is the International Commission against Impunity in Guatemala. It is an important partnership between the United Nations and the Government of Guatemala, launched in 2007 and generously supported by various donor sources. In the four years of its existence, the Commission — which is referred to in paragraph 30 of the Secretary-General's report — has attained tangible successes in its areas of competence. Those areas include the criminal prosecution of emblematic cases, technical assistance and promotion of laws to strengthen the State's ability to fight impunity.

The Guatemalan experience is consistent with the assertion of the Secretary-General in the 2004 report indicating that the main role of the Organization is not to create international mechanisms to substitute for national structures but to help build domestic capacities for justice. This brings me to the considerations proposed by the Secretary-General in his latest report as the next steps to promote the rule of law. I refer particularly to the contents of part A in section IX of the report. I have five observations.

First, we believe that the matter of national ownership, which is key to any successful transition, is not sufficiently taken into account. Concerning the provision of assistance, we support looking into ways to enhance rule of law capacities whenever so requested by the State in question, in close coordination with local authorities and with the aim of fostering national capacities. In relation to transitional justice, this does not pertain exclusively to any particular type of community, and therefore any measure must reflect the unique needs of the affected communities. Avoiding the importation of external models is not a mere policy, but should reflect one of the lessons that have been learned by the international community.

Secondly, we believe that the peaceful settlement of disputes is the main guarantor of international peace and security. In fact, the Council should further develop its institutional capacity further to prevent the emergence of situations that threaten peace and, in particular, it should strive to help concerned parties settle their differences in accordance with the means set forth in the Charter. Further efforts should be made to ensure that legal disputes are referred to the International Court of Justice.

Thirdly, situations must be considered on a case by case basis. While we certainly expect progress and effectiveness through rule of law indicators, we wonder how these would contribute to reflecting the rule of law in conflict and post-conflict societies. What are the objective criteria to develop and assess them? How can such indicators be reconciled with the overall objectives and parameters of the performance of a peacekeeping operation that has other mandated tasks?

Fourthly, we must continue to promote the strict observance of international law and accountability for those responsible for the gravest violations of human rights. The question of amnesty continues to pose a great challenge and creates obvious sensitivities. On the one hand, it is not possible to start with a clean slate or to simply ask for forgiveness. The right balance must be found between the excess of memory and responsibility — factors that could prevent the reconciliation necessary to sustain peace and strengthen democracy. In all cases, we acknowledge that this matter presents legal, moral, ethical and practical dilemmas that are difficult to resolve.

Finally, and as was recalled by the Secretary-General, this year the United Nations will hold a high-level meeting on the rule of law. We believe that this will be a unique opportunity for Member States to strengthen the rule of law as a fundamental contribution to consolidating peace and justice and ending impunity. When reviewing the status of this issue, we find that much remains to be done, and we recognize the timeliness of elaborating a declaration of guiding principles on the rule of law. Undoubtedly, if the Charter had been drafted today, the rule of law would lie at the heart of the principles and purposes of the Organization.

Mr. Tarar (Pakistan): Pakistan welcomes this debate and is grateful to the South African presidency for its initiative. I would also like to thank the Secretary-General for his report on the rule of law and transitional justice in conflict and post-conflict

societies (S/2011/634*), and for his statement this morning.

The international community's efforts to define and implement the rule of law reflect the march of civilization. Today, the rule of law is considered a critical component in our endeavours to build a durable system for peace and prosperity for all. It is also central to the concept of global peace and security and the promotion of fair practices in the struggle for social and economic justice.

The Charter of the United Nations, its principles and international law are at the heart of a rule-based international system. Upholding the principles of justice and the rule of law, sovereign equality, the settlement of disputes by peaceful means, the conduct of international relations without the threat or use of force, and non-interference in the domestic jurisdiction of any State is essential to the maintenance of international order.

The Security Council should lead by example in upholding and promoting the rule of law. Resort to Article 39 of the Charter to determine the existence of any threat to the peace or breach of peace must be made by the Security Council in accordance with the principles and purposes of the Charter, as indicated in paragraph 2 of Article 24. In particular, the use of force should be consistent with the Charter's principles relating to collective security. In its decisions and practices, the Security Council must adhere to its legal foundation, which is the Charter and international law. The institutions that are responsible for the implementation of the rule of law must strengthen it first by their own decisions and actions. If the Council's decisions are informed by the same norms of fair play and justice that it seeks to promote, that would redound to the benefit of the implementation of its decisions and the many-fold increase in the Council's effectiveness.

Concerted efforts should be made to ensure that the resolutions and decisions of the Security Council are implemented uniformly and without discrimination. Selective implementation must be avoided, as it creates an unjust environment that deepens conflicts and compounds the suffering of peoples. It also erodes confidence in the United Nations system and undermines the credibility of the Organization.

International humanitarian law must remain the guiding norm in all situations of armed conflict. The Security Council must persist in demanding full compliance by all to prevent or mitigate the appalling consequences of armed conflicts.

We agree with the recommendation of the Secretary-General that the Council needs to strengthen its support for the International Court of Justice. The Security Council should request advisory opinions from the International Court of Justice whenever it is faced with issues of legal intricacy. The Council can make better use of Article 36 of the Charter by referring parties to a conflict to the International Court of Justice. The pacific settlement of disputes should be promoted by negotiation, mediation, conciliation, arbitration and other means, as enshrined in Article 33 of the United Nations Charter.

Pakistan appreciates the recent efforts to make the Security Council sanctions regimes streamlined and transparent. The role of the Ombudsperson was enhanced by resolution 1989 (2011). We are of the view that while much has been done, a lot of work is still needed to improve the procedures and meet the requirements of the rule of law for ensuring a fair and transparent listing or de-listing of individuals and entities under the Council's sanctions regimes.

Each conflict situation is unique and has its own dynamics. However, justice and the rule of law needs should be integrated into any international or United Nations involvement in post-conflict societies. While we work towards a seamless transition from peacekeeping to peacebuilding and long-term political stability, partnerships among various stakeholders need to be expanded by placing national ownership and perspectives at the centre of rule of law assistance.

Practices that encourage impunity in cases of war crimes, genocide and crimes against humanity must be rejected. We support the mandates and the work of the International Criminal Tribunals for Rwanda and for the Former Yugoslavia. The Tribunals play an important role. They have shown that, within their scope, no one is above or beyond the reach of international law.

Mr. Mehdiyev (Azerbaijan): At the outset, I would like to thank you, Mr. President, for having convened this very important open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security. We are grateful to the Secretary-General for his report on the rule of law and transitional justice in conflict and

post-conflict societies (S/2011/634*), as well as for his briefing.

Azerbaijan reaffirms its commitment to an international order based on international law and the rule of law and considers it essential to cooperation among States. In recent years, international attention on the importance of the rule of law at the national and international levels has significantly increased. At the same time, greater efforts are needed to ensure a unified approach to the rule of law and to address the major threats and challenges that continue to affect basic elements of the international legal order, to undermine the national unity, territorial integrity and stability of States, and to generate disregard and contempt for human rights.

In that regard, further efforts, in particular through resolute measures aimed at ensuring the strict compliance of parties to armed conflict with their obligations under international humanitarian and human rights law, remain crucial and must be an absolute priority. The lack of agreement on political issues in situations of armed conflict and military occupation cannot be used as a pretext for disrespect of international humanitarian and human rights law. The fact that illegal situations continue because of political circumstances does not mean that they are therefore rendered legal. Law and justice are more important than force.

With respect to such situations, we proceed from the importance of reaffirming the continuing applicability of all relevant international legal norms, putting an end to activities aimed at the consolidation of foreign occupation, initiating urgent measures towards removing the adverse effects of such activities, and discouraging any further practices of the same or a similar nature.

The situation of the most vulnerable in societies affected by conflicts, in particular forcibly displaced persons, women and children, brings an element of urgency to the imperative of restoring the rule of law. Ensuring the right to return represents a categorical rejection of the gains of ethnic cleansing and provides a significant measure of justice to those displaced from their homes and land. The impact of conflict on housing, land and property, as well as discrimination on ethnic grounds and forced demographic changes in situations of foreign occupation, require a more consistent and resolute international response. As the Secretary-General pointed out in his report, reparations mechanisms that compensate returnees for the illegal occupation of their property show promising results and should be replicated.

Integral to the existing challenges is the need to ensure accountability for the most serious crimes of concern to the international community. In recent years, important steps have been taken for the protection and vindication of rights and the prevention and punishment of wrongs. Justice is a fundamental building block of sustainable peace that needs to be further strengthened, fully taking into account existing United Nations activities and structures, including in the fields of the rule of law and accountability.

It is therefore important that peace and mediation efforts never accept or tolerate situations created by the unlawful use of force or other egregious violations of international law. They should never promise amnesties or encourage any other form of immunity for the most serious crimes of concern to the international community.

We would like to emphasize once again the responsibility of States to comply with their obligations to end impunity and to thoroughly investigate and prosecute persons responsible for such crimes in order to prevent violations, avoid their recurrence and seek sustainable peace, justice, truth and reconciliation. We are of the view that the international community, in general, and the Security Council, in particular, should react in cases of consistent disregard by States of their obligations to fight impunity.

In conclusion, I would like to reiterate that, in order to achieve the goal of the rule of law, we should uphold fundamental principles, adhere to the uniform application of international law and promote the democratization of international relations.

Mr. Menan (Togo) (*spoke in French*): Today's Security Council open debate on the issue of justice and the rule of law has great significance for our delegation. Togo would like to congratulate your presidency, Sir, for having organized it, and thanks the Secretary-General for his report (S/2012/634*) and his presentation. As part of this debate, my delegation would like to make the following remarks.

Renouncing the use of force is a fundamental principle of the United Nations, even if the requirements of collective security and the right to

self-defence limit its scope. From the outset, it is worth recalling that essential principle at a time when we note that force seems to be the choice for achieving justice, to the detriment of the peaceful settlement of conflicts. Peace and respect for the law are therefore interlinked, while respect for the rule of law is a prerequisite for peace and security, guaranteeing human rights and combating impunity.

I would briefly like to underscore the fact that the role of the International Court of Justice takes on particular importance in that regard. The Court has intervened in situations where a peaceful settlement has not been achieved. In that way, the Court contributes to the maintenance of peace and security and to the promotion of justice and the rule of law.

It is also undeniable that international law is beneficial and effective only if it is implemented at the national level. That is why Togo thought that the functioning of its institutions should be based, first and foremost, on respect for justice and the rule of law. The preamble to Togo's basic law therefore clearly recognizes the primacy of international law and affirms that the State must be founded only on relevant international legal principles and instruments.

Furthermore, my country believes that the best way to promote justice and the rule of law is to ensure that the conduct of all national political stakeholders, as well as the international community, is anchored in the principles of law, and that the violation of such principles be punished in line with established norms. That is why Togo believes that no crime committed during armed conflict should ever go unpunished, including genocide, rape, gender-based violence and violence against children.

It is also undeniable that the perpetrators of such crimes must be punished in accordance with the national law of each country. However, to do that, justice must operate with equality and independently on the basis of the strength of the law and not the law of force. There must be equal justice for all. It must be accessible to all, without any impediment linked to social rank, ethnic origin, culture or religion. Justice for all must be encouraged, in particular in post-conflict countries, because a lack of justice and the prevalence of impunity undoubtedly fuel cycles of vengeance and violence. My country therefore welcomes the fact that the Secretary-General's report on the rule of law and transitional justice in conflict and post-conflict societies (S/2011/634*) is focused on access to justice for all.

The Government of Togo has undertaken broad reform of its justice system to ensure respect for the rights of all citizens. It has established a fully active truth, justice and reconciliation commission, which seeks to shed light on acts of violence perpetrated in the country's past, identify victims and ensure reparations in the context of national reconciliation.

My country also welcomes the gradual establishment of international and ad hoc tribunals, the International Court of Justice in particular, that have promoted number of positive developments. The perpetrators of serious violations of human rights and international law who, for any reason, cannot be tried in their own countries must be referred to those courts. Ideally, however, alleged perpetrators would be held accountable for their actions before national courts.

While it is the State that can most readily enforce the law and ensure its primacy in times of peace, challenges remain to civic well-being in conflict and post-conflict societies. It is therefore important during the reconstruction phase for a viable and credible justice system to be established in order to promote respect for human rights, national reconciliation, peace and stability. We feel that such a system should be able to integrate reparations and punitive justice, while incorporating national sociological values and traditional mechanisms prevent, manage and settle conflicts.

In conclusion, Togo reaffirms its commitment to the rule of law and transitional justice, and believes that the Security Council should continue to play its role in promoting and coordinating efforts in this area. Togo welcomes the adoption of measures by the United Nations on the protection of civilians and children in armed conflict. The Security Council should also encourage better international cooperation in the promotion of the rule of law and justice, and assist countries — developing countries in particular — in ensuring that those principles are anchored in their daily lives.

The President: I shall now make a statement in my capacity as Permanent Representative of South Africa.

I, too, wish to thank the Secretary-General for his briefing on his report before us (S/2011/634*). It is a

truism that the promotion of justice and the rule of law is an indispensable pillar of peaceful coexistence and the prevention of conflict. An inextricable link between the promotion of justice and the attainment of a peaceful world is reflected in Articles 1, 2 and 33 of the Charter of the United Nations. Our efforts in the search for long-lasting peace must therefore of necessity include the establishment of the rule of law and the promotion of justice.

Peacebuilding and peacemaking require an integrated and comprehensive approach that takes into account development, economic prosperity, the establishment of the rule of law and the promotion of justice. All of these must be accounted for in all conflict prevention, conflict resolution and peacemaking activities. The role of the international community in assisting with the building and strengthening of justice institutions in conflict-affected countries is crucial. Equally important, however, is the promotion of national ownership in all activities associated with the rule of law if these are to be successful.

We cannot speak of the rule of law in the context of peacebuilding without speaking of accountability, particularly for the most serious crimes of concern to the international community. The International Criminal Court (ICC) and the ad hoc Tribunals for Rwanda and the former Yugoslavia are important cogs in the international architecture to fight impunity. The ICC and the ad hoc tribunals, through the promotion of accountability and the fight against impunity, are making an essential contribution to the preservation of the peace, security and well-being of the world.

Ultimately, however, success will be achieved only when there are no cases before international courts and tribunals because national systems are willing and able to carry out investigations and prosecutions. It is for that reason that South Africa continues to champion positive complementarity, which is a key principle of the Rome Statute system designed to strengthen domestic jurisdictions to investigate and prosecute serious crimes.

In efforts to promote the rule of law at the national level, including the promotion of accountability mechanisms, equal attention must be paid to the rule of law at the international level. If it is not, the United Nations runs the risk of being accused of double standards and of losing its credibility. To borrow from a statement made by the Secretary-General in 2004, we need to ask the question of whether the international community can be said to be governed by a system in which all players are accountable to laws that are equally enforced and independently adjudicated.

Over the past year, we have seen inspiring improvements and spectacular disappointments alike in the promotion of the rule of law through the Council's work. The adoption of resolution 1989 (2011), bringing the Al-Qaida regime closer to human rights and due process standards, was a noteworthy illustration of the Council's willingness to improve its adherence to the rule of law. However, as noted by President Zuma on 12 January from this very seat (see S/PV.6702), the abuse and disregard of basic rule of law requirements in the implementation of resolution 1973 (2011) remain a serious cause of concern. South Africa therefore fully supports the call on the Council to undertake deliberate measures to satisfy itself about whether those who implemented resolution 1973 (2011) correctly interpreted its provisions. They should also be held accountable for the actions they took in implementing the Council's decisions.

We continue to encourage the Council to make better use of the International Court of Justice, the principal judicial organ of the United Nations. By making requests for advisory opinions when confronted with complex legal questions, it would show that the old debate about whether the Security Council functions above international law is passé and that, notwithstanding the primary role of the Security Council in the maintenance of international peace and security, the Council operates within the framework of international law in all its actions.

In conclusion, we thank the Rule of Law Unit and the Rule of Law Coordination and Resource Group for their efforts to ensure greater coordination and coherence in the United Nations rule of law activities.

I now resume my functions as President of the Security Council.

Following consultations among Council members, I have been authorized to make the following statement on their behalf.

> "The Security Council recognizes the need for universal adherence to and implementation of the rule of law and emphasizes the vital

importance it attaches to promoting justice and the rule of law as an indispensable element for peaceful coexistence and the prevention of armed conflict.

"The Security Council reaffirms its commitment to international law and the Charter of the United Nations, and to an international order based on the rule of law and international law, which are essential for cooperation among States in addressing common challenges, thus contributing to the maintenance of international peace and security.

"The Security Council is committed to and actively supports the peaceful settlement of disputes and reiterates its call upon Member States to settle their disputes by peaceful means as set forth in Chapter VI of the Charter of the United Nations. The Council emphasizes the key role of the International Court of Justice, the principal judicial organ of the United Nations, in adjudicating disputes among States and the value of its work. To this end the Council calls upon States that have not yet done so to consider accepting the jurisdiction of the Court in accordance with its Statute.

"The Security Council reiterates its concern over the devastation and suffering caused by armed conflict and emphasizes the need to prevent conflict and, where conflict has already broken out, to restore peace and security. The Council acknowledges that political will and the concerted efforts of both national Governments and the international community are critical to preventing conflict and achieving success in the restoration of and respect for the rule of law.

"The Security Council reiterates its concern about the situation of the most vulnerable in societies affected by armed conflict, including women and children as well as other vulnerable groups and displaced persons. The Council expresses particular concern about sexual and gender-based violence in conflict situations and recalls in this regard resolution 1325 (2000) and other relevant resolutions.

"The Security Council reaffirms that sustainable peace requires an integrated approach based on coherence between political, security, development, human rights, including gender equality, and rule of law and justice activities. In this regard, the Council emphasizes the importance of the rule of law as one of the key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding.

"The Security Council recognizes the importance of national ownership in rule of law assistance activities, strengthening justice and security institutions that are accessible and responsive to citizens' needs and which promote social cohesion and economic prosperity. In this regard, the Council takes note of the initiatives being taken by some conflict-affected countries to help ensure national ownership in rule of law assistance activities and improve the quality of support to those countries.

"The Security Council recognizes the need for enhanced efforts aimed at capacity building in justice and security institutions, especially in the police, prosecutorial, judicial and corrections sectors. In this regard, the Council notes the need for increased efforts to ensure that conflict-affected countries are able to access a broad range of relevant expertise, in particular from developing countries, in order to effectively build the capacity of justice and security institutions.

"The Security Council welcomes efforts by the Rule of Law Unit and the Rule of Law Coordination and Resource Group within existing mandates and encourages further efforts to ensure greater coordination and coherence in rule of law activities in conflict-affected societies. To this end, the Council requests that the Secretary-General continue his efforts to further clarify roles and responsibilities within the United Nations system for specific rule of law activities, based on assessments of agencies' respective strengths and capacities, to ensure more effective delivery of support to conflict-affected countries.

"The Security Council notes with concern that transnational organized crime and drug trafficking can pose serious threats to international security in different regions of the world, notes also that these transnational crimes may threaten the security of countries on its agenda, including post-conflict States, encourages the coordination of United Nations actions as well as Member States' actions in fighting these

threats through implementation of national and international applicable norms, relevant international long-term capacity-building efforts and regional initiatives.

"The Security Council reiterates its call on all parties to armed conflict to comply with the obligations applicable to them under international humanitarian law and to take all required steps to protect civilians and recalls in this regard resolution 1894 (2009).

"The Security Council reaffirms its strong opposition to impunity for serious violations of international humanitarian law and human rights law. The Council further emphasizes the responsibility of States to comply with their relevant obligations to end impunity and to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law in order to prevent violations, avoid their recurrence and seek sustainable peace, justice, truth and reconciliation.

"The Security Council recalls the statement by its President on 29 June 2010 (S/PRST/2010/11), which included the contribution of the International Criminal Court, ad hoc and mixed tribunals, as well as chambers in national tribunals to the fight against impunity for the most serious crimes of concern to the international community. In this regard, the Council reiterates its previous call on the importance of State cooperation with these Courts and Tribunals in accordance with the States' respective obligations.

"The Security Council reaffirms that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, including hostage-taking, negatively affects the rule of law, and recalls its decision contained in resolution 2015 (2011) to continue consideration, as a matter of urgency, without prejudice to any further steps to ensure that pirates are held accountable, of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support.

"The Security Council considers sanctions an important tool in the maintenance and restoration of international peace and security. The Council reiterates the need to ensure that sanctions are carefully targeted in support of clear objectives and designed carefully so as to minimize possible adverse consequences and implemented by Member States. The Council remains committed to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions.

"The Security Council looks forward to the high-level meeting on the rule of law at the national and international levels to be held on 24 September 2012 and notes with appreciation the intention to extend an invitation to the President of the Council to participate in the event.

"The Security Council requests the Secretary-General to provide a follow-up report within 12 months to consider the effectiveness of the United Nations system's support to the promotion of the rule of law in conflict and post-conflict situations."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2012/1.

I should like to remind all speakers to limit their statements to no more than four minutes, in order to enable the Council to carry out its work expeditiously. Delegations with lengthy statements are kindly requested to circulate their texts in writing and to deliver a condensed version when speaking in the Chamber.

I now give the floor to the representative of Brazil.

Mrs. Viotti (Brazil): I would like to thank South Africa for organizing this open debate.

As this is the first time that Brazil participates in a Security Council meeting since the end of our mandate, let me reiterate our pledge to continue to cooperate with Member States in advancing the role of the Security Council in the maintenance of international peace and security.

Our warmest wishes for success go to Guatemala, Azerbaijan, Togo, Morocco and Pakistan.

As the Secretary-General's report (S/2011/634) underlines, the observance of basic rule of law principles by the international community a prerequisite for lasting peace, security and development. That becomes even more important in conflict and post-conflict contexts, in which societies must rebuild the social fabric torn apart by armed conflict. We welcome the inclusion by the Security Council of the rule of law and transitional justice dimension in its decisions.

The protection of civilians, grave violations in armed conflict of children's rights, and women's justice and security needs have become an important part of the Council's concerns and mandates.

Brazil has consistently emphasized the structural importance of the ad hoc Tribunals for the former Yugoslavia and Rwanda in the fight against impunity and in the quest for judicial accountability.

We also acknowledge the fundamental role of the International Criminal Court (ICC). International criminal accountability is a responsibility of the international community as a whole. The increased willingness of the Council to resort to the ICC should be accompanied by increased responsibility of the whole United Nations membership in providing the necessary means to the Court. Brazil supports the integrity of the Rome Statute and firmly opposes the exemption from the jurisdiction of the ICC of certain categories of individuals. We regret that exemptions were introduced in Security Council resolutions. The notion of selective international criminal accountability is foreign to the values we uphold when advocating for the cause of justice.

We are also in favour of increased use of the International Court of Justice to clarify legal elements of international disputes as a means to strengthen the Council's actions. The President of the International Court of Justice, in his briefing to the Council last October, spoke about the parallel and complementary roles of the Court and the Security Council. Indeed, the work of the International Court of Justice helps to uphold the primacy of law in international affairs. The Council could further explore the advisory role of the World Court.

The Secretary-General aptly mentions the mutually reinforcing character of transitional justice processes and institutional capacity-building. Non-judicial mechanisms such as truth commissions, commissions of inquiry, reparations and institutional reform are valuable instruments to foster peacebuilding and democratic governance. In developing those initiatives, the United Nations and the Council should be attentive, first and foremost, to the importance of national ownership, as has already been highlighted here. Social change will take root only if it is nationally owned by all relevant national actors. That implies close attention to the specificities of a given country.

Secondly, women and children must be placed at the centre of transitional justice mechanisms. We commend the Council for its efforts in combating impunity for sexual and gender-based violence, in promoting gender-responsive justice reforms and in securing women's participation in all aspects of post-conflict recovery.

Thirdly, when addressing the root causes of conflict, the United Nations must continue to strengthen the linkages between the rule of law and economic and social development. Brazil warmly welcomed the General Assembly's decision to strengthen the Rule of Law Unit in the Executive Office of the Secretary-General.

The multidimensional challenges of the current peace and security agenda require that the Security Council set the example. Accountability is crucial to the rule of law at the national level. It should also be a major concern with regard to the implementation of Security Council decisions. Those elements form part of a discussion that Brazil is promoting on responsibility while protecting. By reinforcing accountability with regard to the implementation of its own decisions, the Security Council reaffirms its commitment to the rule of law as a prerequisite to long-lasting peace and security. The ideal of an international order based on the rule of law should always be a source of inspiration for all of us.

Mr. De Alba (Mexico) (*spoke in Spanish*): Mexico commends the delegation of South Africa for convening this important and timely debate. We also thank the Secretary-General for presenting his report (S/2011/634*), as well as for his personal interest in the matter we are debating.

Mexico recognizes the importance that the concept of the rule of law has acquired through a number of Security Council resolutions, in particular when it comes to establishing mechanisms for the

protection of civilians in armed conflict, the attention that has been given to the justice and security needs of women and children, and the promotion of gender equality in access to justice.

In the same vein, we welcome the transitional justice initiatives that have advanced accountability, respect for human rights and the creation of institutional capacity, because they have generated trust among citizens in their institutions and have encouraged reforms to the rule of law. For that reason, we believe that it is critical for Security Council decisions to adhere to the principles of the rule of law in order to guarantee the legitimacy of its actions, as the President himself stated few moments ago in his national capacity. It is imperative for the Council to comply with and ensure compliance with international law. We acknowledge that the Council has made progress in that area, but a great deal remains to be done in order to guarantee that all actions that this organ decides to take are in every case based on and guided by international law.

As the Secretary-General's report emphasizes, Mexico believes that the Organization should play a leading role in the efforts to combat impunity for the perpetrators of the most serious crimes with international importance. In that respect, the establishment of the International Residual Mechanism for Criminal Tribunals will ensure the effective conclusion of the important mandates granted by the Council to the Criminal Tribunals for the former Yugoslavia and Rwanda. On its part, the growing role that the Council has played in the referral of situations to the International Criminal Court, as was the case with the situations in Darfur and, more recently, in Libya, is a positive contribution to efforts by the international community to ensure that such crimes do not go unpunished when a State lacks the will or the ability to prosecute them.

While the Secretary-General's report addresses the status of the rule of law in societies faced with conflict or the aftermath of conflict, it also makes clear that the promotion and strengthening of the rule of law are not simply a remedy for societies faced with such situations. Rather, it also constitutes a guide for behaviour to which all States are obligated, regardless of their level of economic or social development or their political or military power. Similarly, the principles of the rule of law apply to all international organizations, including their subsidiary organs.

In that context, my delegation believes that the Secretary-General's proposal to fast-track the implementation of indicators for the rule of law is a positive step. However, it should be kept in mind that quantitative indicators alone are not sufficient for evaluating results. It is therefore important to include qualitative criteria, such as equal access to justice, the effectiveness of judicial systems and the fight against impunity. In addition, it should be recalled that the indicators used to measure respect for and compliance with the rule of law should be applied to all Member States.

Mexico reiterates its conviction that the rule of law is indispensable for peacekeeping and international security, as well as a precondition for ensuring the comprehensive development of the international community on the political, economic and social levels.

Mexico supports the presidential statement (S/PRST/2012/1) that the President has just read out, in order that the Council promote the strengthening of the rule of law in its decisions and underscore the importance of respect for international conventions and treaties as a first step towards preventing conflicts.

Finally, my delegation would like to stress that the upcoming high-level meeting on the rule of law at the national and international levels, to be held as part of the General Assembly on 24 September, represents an opportunity to better address this issue from a more cross-cutting, balanced, better-coordinated and longer-term perspective.

Mr. Nishida (Japan): I would like, first of all, to congratulate His Excellency Mr. Baso Sangqu on his assumption of the presidency of the Security Council, as well as to extend my appreciation for South Africa's strong initiative in convening today's open debate on justice and the rule of law. I would also like to take this opportunity to wish a successful year to the newly elected members of the Council, namely, Azerbaijan, Morocco, Togo, Pakistan and Guatemala.

Progress has been made in recent years within the United Nations system in the field of the rule of law, including an enhanced focus on women and children, which has created greater awareness of the subject. The plan to hold a high-level meeting on the rule of law at the national and international levels during the high-level segment of the General Assembly's sixty-seventh session demonstrates that heightened awareness.

In that regard, we welcome the submission of the Secretary-General's report (S/2011/634*) on the rule of law and transitional justice in conflict and post-conflict societies. We hope that today's debate will help to advance our efforts to strengthen the rule of law, to prevent conflicts and to build peace.

January marks the one-year anniversary of the historic change that occurred in Tunisia and Egypt. Since then, we have witnessed efforts to reform by many countries. The events of 2011 reminded us that the rule of law is one of the most critical norms in realizing peaceful coexistence. In other words, this year will be especially important in ensuring that the rule of law, freedom and democracy take root in our respective societies.

Different countries are at different phases of change: some are progressing towards the establishment of democratic Government through constitutional and electoral processes and some are seeking to create a blueprint for their countries, while the actions of certain Governments give rise to serious doubts as to their sincerity with regard to reform. It is essential that the Security Council and the international community continue to be seized of the developments in each of those countries and provide the necessary assistance.

Efforts to strengthen the rule of law have been made in every part of the world, including Asia and Africa. Japan has actively supported such endeavours. In Afghanistan, for example, Japan has contributed a total of $960 million to build capacity in the security sector since 2001. In South-East Asia, we have allocated $70 million to the Khmer Rouge trial in Cambodia and have dispatched Mr. Motoo Noguchi to serve as an international judge. I would like to take this opportunity to reach out to the international community for further assistance in order to support that very important trial.

In the United Nations setting, Japan, as Chair of the Working Group on Lessons Learned of the Peacebuilding Commission, held a meeting on security sector reform and the rule of law last October, leading the discussion on linkages between security sector reform and the rule of law and on the role of capacity-building in rule of law efforts. The need for better coordination at the policy level and among various actors is quite evident. Japan, working through the Peacebuilding Commission, stands ready to continue to seek improvements in methods of assistance and to explore a variety of means to mobilize funds.

The International Criminal Court is indispensable in putting an end to impunity for perpetrators who commit the most serious crimes. Japan will more actively engage in the work of the Court and, together with other States parties, strongly support the newly elected President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Her Excellency Ambassador Intelmann of Estonia. It is our hope that those activities will lead to progress in our fight against impunity and to the realization of justice and the strengthening of the rule of law.

On 11 March, we will commemorate the first anniversary of the Great East Japan Earthquake. The fact that the people in the affected areas acted in such an orderly manner, despite indescribable chaos and sorrow, illustrates that in addition to institution-building, nurturing a law-abiding spirit is also vital in making the rule of law take root in a society. Needless to say, the heartwarming support received from all over the world also played a large role in giving the affected people courage in the face of such adversity. We would like to reiterate our deepest gratitude for that support.

Japan stands ready to support those countries working to rebuild in the aftermath of conflicts and disasters. We remain committed to providing assistance in this very important area of the rule of law. Japan also supports the presidential statement adopted today (S/PRST/2012/1).

Mr. Roman-Morey (Peru) (*spoke in Spanish*): As this is the first time that my delegation addresses the Security Council this year, I would like to take this opportunity to warmly welcome the new non-permanent members of the Council and to wish them every success during their term. We reiterate to them Peru's commitment to make a solid contribution to the vital task of maintaining international peace and security, which is the primary goal of this United Nations organ.

Today's debate is focused on the rule of law and transitional justice in conflict and post-conflict societies. In his report (S/2011/634*), the Secretary-General judiciously outlines a number of fundamental aspects to be addressed in that regard, such as security sector reform and civilian protection, placing particular emphasis on the most vulnerable groups, such as

children and women, as well as the need to bring to justice the perpetrators of international crimes.

As is well known, Peru was affected by domestic terrorism and political violence during the 1980s and 1990s. That triggered a process of internal reflection and reform, as well as the establishment of a truth and reconciliation commission. Judicial proceedings have also been carried out to try the perpetrators in accordance with due process. Now that nearly two decades have passed since the violence ended, we continue to adopt measures that enable us to provide care and make reparations to the victims.

Strengthening the rule of law is undoubtedly a fundamental prerequisite if we are to truly speak of inclusive societies. If we fail to strengthen the rule of law, the living conditions of our peoples and the institutional structures of the State, as well as proper administration, will be undermined. That, in turn, can have an impact by jeopardizing international peace and security.

Furthermore, we must reaffirm our commitment to the fight against impunity, in terms of both national and complementary international actions. In that regard, we wish to underscore the work accomplished by the international tribunals established by the Security Council and the work of the International Criminal Court. In that context, we must ensure that the perpetrators of the most serious crimes that affect the international community as a whole are duly tried and punished. As part of that task, the Rome Statute of the International Criminal Court establishes the fundamental role to be played by the Security Council. All States must unambiguously adopt respective measures with regard to the provisions of the Rome Statute and the Charter of the United Nations in order to respond to requests for cooperation and assistance and to execute the arrest warrants issued by the Court.

I would like to address two fundamental aspects in the field of strengthening the rule of law at the international level, namely, the obligation of States to refrain from the threat or use of force and the central role of peaceful dispute settlement mechanisms. In order to preserve future generations from the scourge and consequences of war, States are compelled to refrain from having recourse to the threat or use of force in any manner that is incompatible with the Charter of the United Nations. That obligation means that States are to resolve their disputes, including territorial disputes, by peaceful means in order to avoid jeopardizing international peace and security.

In that regard, we must underscore the work of the International Court of Justice, as the principal judicial organ of the United Nations system, to resolve disputes between States. The General Assembly has reiterated that point in several resolutions and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States.

Moreover, given the ongoing situations of conflict, in particular those arising from the arms race, the General Assembly adopted resolution 37/10 by consensus on the Manila Declaration on the Peaceful Settlement of International Disputes, in which it stated that the referral of a case to the International Court of Justice should not be deemed an unfriendly act between States. The General Assembly subsequently adopted the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (General Assembly resolution 43/51). That resolution calls for States to act so as to prevent in their international relations the emergence or aggravation of disputes or situations, in particular by fulfilling in good faith their obligations under international law.

With regard to the International Court of Justice, there are two factors that that this Council must always bear in mind. On the one hand is recognition of the Court's contentious jurisdiction, and on the other, the recognition of and full compliance with its rulings. There is no doubt that those two factors, especially the second, are a clear way of gauging the contribution and commitment of States to the maintenance of international peace and security, as well as to the other purposes of this Organization.

We should highlight that States are obligated to implement the decisions of the International Court of Justice in all disputes to which they are parties. That was one of the main objectives that the General Assembly entrusted to States in the framework of the United Nations Decade of International Law, from 1990 to 1999, one of the principal objectives of which was the promotion of ways and means for the peaceful settlement of disputes between States, including recourse to the International Court of Justice and full

and unequivocal respect for and compliance with its rulings.

The Secretary-General's report entitled "An Agenda for Peace" (S/24111), presented to both the General Assembly and the Security Council, recommended that all Member States accept the general jurisdiction of the Court without reservation before the end of 2000. However, to date only 66 States, including Peru, have submitted statements that they recognize the compulsory jurisdiction of the Court — although in a number of cases they have done so with reservations. We therefore call on all States that have not done so to recognize the Court's jurisdiction as soon as possible.

It is worth stressing that the ideal framework for the full implementation of the rule of law is democracy. We tend to distinguish between measures intended to strengthen the rule of law on the international level and on the internal level. However, it is clear that that is an artificial dichotomy and that actions have effects on both levels.

We recognize that many States are facing a serious economic crisis, but that situation cannot be used as a pretext for not carrying out or applying measures to strengthen the rule of law. Such measures constitute a mechanism that makes it possible to reduce economic costs, to legitimize the actions of the State and, more importantly, to prevent the loss of innocent lives. International cooperation, at its various levels and in its various methods of operation, must guide those activities. To that end, we must strive to better coordinate and streamline initiatives in this field in order to use resources as efficiently as possible.

We wish to conclude by recognizing the efforts that have been made in this undertaking by the Rule of Law Assistance Unit and the Rule of Law Coordination and Research Group. We look forward with optimism to the high-level meeting to take place next September alongside the general debate.

The President: I now call on the representative of Liechtenstein.

Mr. Wenaweser (Liechtenstein): The year 2012 may well become the year of the rule of law at the United Nations, not least because of the high-level meeting of the General Assembly to be held in September. It is gratifying to see that the Security Council pays corresponding attention.

We agree that the Security Council is playing an increasing role in promoting the rule of law and hope that it will consider and follow the recommendations contained in the report of the Secretary-General (S/2011/634*). We fully endorse his view that the Council should adhere to basic rule-of-law principles to ensure the legitimacy its actions. Indeed, the best way for the Council to promote international law and the rule of law is to lead by example. Such leadership by example is required not only from the Council itself but also from missions and operations mandated by it, often with explicit mandates to support the rule-of-law architecture in the respective host countries.

The importance of ensuring that United Nations peacekeepers and other personnel operating in such environments abide by applicable laws and do not commit crimes themselves cannot be overstated. It appears, however, that much remains to be done to effectively prevent such crimes and to ensure that the perpetrators are brought to justice. Repatriation alone is insufficient to bring about accountability. Greater efforts must be made to address this problem, and we were disappointed to note an absence of any reference to it in the report of the Secretary-General.

In recent years and decades we have seen an enormous expansion of international mechanisms promoting the rule of law, and criminal accountability in particular, as evidenced most prominently by the growing role of the International Criminal Court (ICC). At the same time, it is evident, as well as in keeping with the principle of complementarity enshrined in the Rome Statute, that the domestic level holds the key for sustainable progress. It must therefore be at the centre of our attention and also a focus of Security Council action. The Council should remind States of their obligations to investigate and prosecute the most serious crimes under international law and should support efforts to strengthen domestic judicial capacities, in particular by devising appropriate mandates and structures for missions on the ground.

We are pleased to note the Secretary-General's commitment to work together with the ICC and donors to enhance support to national authorities. The General Assembly has repeatedly stressed the importance of placing national perspectives at the centre of rule-of-law support and capacity-building. We hope that the high-level meeting in September will be an opportunity to improve the coordination of those efforts.

The report rightly highlights commissions of inquiry as an important tool to promote accountability. At the same time, it appears that the United Nations system often struggles to provide those commissions with the necessary support. Given the wealth of experience gained in recent years with such undertakings, the time seems ripe to systematize and professionalize support for commissions of inquiry, in a manner similar to the Secretariat's improvement of its support for mediation activities.

Finally, we would like to take this opportunity to remind the Council and Member States of an important development in international criminal law. The 2010 ICC Review Conference adopted by consensus a definition of the crime of aggression for the purpose of the Rome Statute, as well as the conditions under which the Court may no earlier than 2017 exercise jurisdiction over that crime. Once formally activated, the Court's jurisdiction over the crime of aggression will give the Council a new policy option for addressing the most serious forms of the illegal use of force in contravention of the Charter. In addition, the definition of the act and crime of aggression can already assist the Council, even now, in its deliberations on the legality of the use of force.

The prospect of judicial enforcement of this most central prohibition of the United Nations Charter represents a significant advance for the rule of law in the maintenance of international peace and security. In order to bring this new system to full effect, States should ratify the amendments on the crime of aggression soon. Furthermore, they should also incorporate the definition of the crime of aggression into their national criminal codes, at least with respect to their own nationals.

It is our hope that the outcome of today's debate, particularly the presidential statement, will have a concrete impact on the Security Council's future work in country-specific situations and will make a contribution to the preparatory process for the September high-level meeting. The Council's full support for the rule of law is indeed indispensable for the overall success of the United Nations in this area.

The President: I now give the floor to the representative of Costa Rica.

Mr. Ulibarri (Costa Rica) (*spoke in Spanish*): Allow me first and foremost to congratulate the elected members of the Security Council, who have joined the Council this month, and to wish them every success.

My delegation welcomes the convening of this debate. We welcome also the growing interest shown by the Security Council in the promotion and strengthening of the rule of law in the maintenance of international peace and security. That initiative is reflected in the broadest-ranging efforts of the Organization, including in the convening of the high-level meeting of the General Assembly that is to take place in September, which my delegation enthusiastically supports. We wish also to thank the Secretary-General for his report (S/2011/634*) on the implementation of transitional justice measures in conflict and post-conflict societies.

Costa Rica aligns itself with the statement to be made by the representative of Austria on behalf of the Human Security Network and wishes to emphasize the following elements.

The rule of law and legal certainty in every country and in the international system are essential elements for the sustainability of peace and security, and for the protection and promotion of human rights, as well as the promotion of development.

As stated in the ministerial declaration of the Human Security Network of 23 September 2009, peace and justice are interrelated and complementary. Furthermore, the rule of law should not be viewed from a merely procedural perspective as a matter of legal norms. Rather, it should include the assurance that justice is done from the most substantive point of view, which, in the global arena, implies firm opposition to impunity for the commission of serious violations of international humanitarian law and of human rights norms.

We welcome the progress that has been made in providing for the protection of persons, in particular civilians, including women and children, when addressing security-related issues. In its actions to prevent and resolve conflicts and to help build and maintain peace in specific situations on the ground, the Council must sustain its efforts to make the rule of law in the broader sense the linchpin of its resolutions and mandates in a systematic and non-selective manner.

Furthermore, we encourage the Council to make greater use of the information that is available within the United Nations system regarding the human rights

situation in the various countries of the world and to establish channels for more open communication with the Office of the High Commissioner and with other human rights mechanisms that are relevant to the issue we are considering today.

As they play an important role in ensuring respect for and promotion of the rule of law, both the Council and the United Nations system as a whole must also adopt a more comprehensive approach to transitional justice mechanisms and to the establishment of specific programmes aimed at building national capacities. That must go hand in hand with the rejection of initiatives that seek to grant amnesty to the perpetrators of crimes against humanity. A further essential undertaking is the adoption of an approach that addresses transnational organized crime in the context of programmes dealing with the rule of law, as is reflected in the report of the Secretary-General.

The Council has reiterated its commitment to an international order that is based on the rule of law and on international law. For that reason, in its daily and concrete actions it must support the work of the international tribunals. The Council must not fail to recognize and encourage the contributions made by the International Criminal Court; its commitments must include the referral of situations whenever necessary, as well as the provision of clear and resolute support for the Court's actions. That cooperation, on the part of both the Council and the membership of the United Nations, is particularly important in terms of the arrest of suspects, an aspect that Costa Rica has repeatedly underscored.

Furthermore, the Security Council must also maintain its support for the International Court of Justice, as the Court is one of the most significant means used for the pacific settlement of disputes, in particular when there is non-compliance with the obligations stemming from the decisions adopted by the Court, pursuant to Article 94 of the Charter.

Moreover, as a fundamental prerequisite for its legitimacy, the actions of the tribunals, be they international, regional or national, must also be subject to law and free of any attempt at political manipulation.

Like all the other organs of the multilateral system, the Security Council must be subject to the rule of law. As one of the earliest proponents within the Council of respect for due process in the imposition of sanctions, in accordance with the regime established under resolution 1267 (1999), Costa Rica welcomes the progress that has been achieved in that area, in particular through the establishment of the Office of the Ombudsperson towards the end of 2009. However, further changes must still be made in order to meet still higher standards.

Finally, we believe that, above and beyond sanctions regimes, when seeking to address new security threats such as terrorism or piracy, the Security Council must be particularly cautious in ensuring that its actions remain governed by the specific nature of the situation at hand and are time-bound and restricted by the provisions of Chapter VII of the Charter. That will enable it to maintain its legitimacy and better serve the cause of peace and security.

The President: I now give the floor to the representative of Austria.

Mr. Sajdik (Austria): It is my honour to speak on behalf of the Human Security Network, an informal, cross-regional group of States comprising Chile, Costa Rica, Greece, Ireland, Jordan, Mali, Norway, Panama, Slovenia, Switzerland, Thailand and Austria, and South Africa as an observer.

At the outset, we want to thank the presidency for having organized today's open debate as well as the Secretary-General for his presentation, and we would like to express our support for the recommendations contained in his report (S/2011/634*).

We welcome the Security Council's important role in enhancing the rule of law, which is central to the people-centred, holistic approach to security advocated by the Human Security Network. Clear and foreseeable rules, respect for and adherence to those rules and an effective rules-based multilateral system to prevent and sanction violations are preconditions for lasting international peace and security. We encourage the Council to use the tools at its disposal to ensure respect for international law and to respond to grave violations in a systematic and consistent manner.

While the primary responsibility for investigating and prosecuting international crimes lies with States, and domestic justice systems are the first resort in the pursuit of accountability, the international community, including the Council, undeniably has a key role in addressing such crimes and in ensuring accountability.

Possible measures at the Council's disposal are diverse and include referrals of situations to the International Criminal Court, as with the unanimous adoption of resolution 1970 (2011) concerning Libya; the imposition of targeted measures; the establishment of accountability mechanisms; the mandating of commissions of inquiry; and, more generally, mandating support for the rule of law and the strengthening of justice and security institutions in peacekeeping operations.

In that regard, let me also mention the great importance that the Human Security Network attaches to the role of the Council in the protection of women and children. We are pleased with the work undertaken by the Security Council in progressively strengthening the protection framework for children affected by armed conflict, as well as with its efforts to prevent and combat sexual violence.

We would like to underline the importance of capacity-building for State institutions and transitional justice approaches that are victim-centred and gender-sensitive in order to ensure that the rights of victims, in particular of women and children, are fully respected and their interests taken into account.

We fully support the Secretary-General's recommendation for further attention by the Council to the rights of victims to reparations. Of the four pillars of transitional justice, reparation is the one that most lacks concrete implementation. Over the past two decades, the Council has supported the development of national and international judicial mechanisms, the creation of truth commissions and the implementation of institutional reforms needed to prevent further violations of human rights and international humanitarian law. We encourage the Council also to give more attention to the question of reparation. Reparation programmes, as underlined in General Assembly resolution 60/147, on reparations, are not limited to monetary compensation but can also include symbolic measures, such as social services and psychological care, that can make an important contribution to the reconciliation of divided societies, as well as help to address the economic and social justice dimensions of the root causes of conflict.

Last but not least, the Human Security Network would like to express its full support for the new Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, whose mandate was recently established by a consensual resolution of the Human Rights Council. That reflects a clear acknowledgement that accountability, along with truth-seeking processes, reparations and institutional reforms as a means of advancing human security, must be an integral part of the United Nations transitional justice efforts. We envision that the new Special Rapporteur will be able to contribute to a more comprehensive approach to justice and rule of law related issues, and hope that the Secretary-General will take into account, as appropriate, the work of relevant special procedures within the United Nations system in his next report presented to the Council on this issue.

Allow me now to address to Council in my national capacity. It goes without saying that Austria aligns itself with the statement to be made by the observer of the European Union.

The recent events in the Arab world show the timeliness of discussing the rule of law and transitional justice. Accountability for serious international crimes is a crucial aspect of that. Austria therefore calls for full cooperation by all States with international and hybrid tribunals established by the United Nations or with its support. Moreover, all States must abide by and implement the resolutions adopted by the Council under Chapter VII, in particular when urged to fully cooperate with the International Criminal Court, including with regard to the arrest and surrender of suspected perpetrators.

Rule of law and transitional justice activities are now increasingly integrated into Security Council resolutions. For example, resolution 1894 (2009), on the protection of civilians, highlighted the importance of a comprehensive approach to transitional justice initiatives and acknowledged the important role of accountability mechanisms, as well as national reparation programmes for victims, in the protection of civilians in armed conflict.

As emphasized in the Secretary-General's report (S/2011/634*) to the Council on the rule of law and transitional justice in conflict and post-conflict societies, all rule of law programmes and transitional justice mechanisms have to be planned and implemented in a manner sensitive to the specific needs and rights of women and children. Evaluations of the specific impact of transitional justice measures on marginalized groups of society should be conducted on a more systematic basis. In view of the unique and

disproportionate effects of conflict on women and children, we must enhance our efforts to ensure women's access to justice. We also need to provide for minimum standards for the participation of children in transitional justice mechanisms. For children who have been associated with armed groups, for example, the focus should be on non-judicial, restorative accountability mechanisms that take the child's interest into account, as well as on socio-economic reintegration.

Furthermore, the report rightly highlights the need for the Security Council itself to adhere to basic rule of law principles to ensure the legitimacy of its actions. In that regard, Austria welcomes the substantial improvements of the procedures within the Al-Qaida sanctions regime, including the recent strengthening of the Office of the Ombudsperson, and encourages the Council to further broaden and enhance due process, including with regard to other sanctions regimes.

Allow me to conclude by pointing to the high-level meeting on the rule of law at the national and international levels, to be held in September. The meeting could, and should, provide the ideal opportunity for the launch of a new inclusive global dialogue forum that brings together all relevant stakeholders — national authorities, multilateral bodies, regional organizations, civil society and the private sector — and help to consolidate the currently fragmented approach to rule of law assistance.

Finally, I would once again like to thank South Africa for convening today's meeting. We call on the Security Council to hold open debates on the rule of law on a regular basis in the future.

The President: There are still a number of speakers remaining on my list. Given the lateness of the hour, I intend, with the concurrence of the members of the Council, to suspend the meeting until 3 p.m.

The meeting was suspended at 1.10 p.m.